IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11161 of 2000

For Approval and Signature:
HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to civil judge ?

1 to 5 : NO

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HARIJAN DEVABHAI JIVABHAI - Petitioner(s)

Versus

BECHARBHAI VALABHAI VANIYA CHAIRMAN & 5 - Respondent(s)

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Appearance :
MR KUNAN B NAIK for Petitioner
MR MUKTESH V PATEL for Respondent(s) : 1,
MS KIRAN PANDE AGP for Respondent(s) : 2 - 3.
RULE SERVED for Respondent(s) : 4,
DS AFF.NOT FILED (R) for Respondent(s) : 5,
MR AMIT M PANCHAL for Respondent(s) : 6,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT
1st August 2007

ORAL JUDGMENT

The petitioner before this Court is one of the members of Dr. Ambedkar Samudaik Kheti Shakari

Mandali Limited[hereinafter referred to as, "***the Society***"], a Cooperative Society registered as such under the Gujarat Cooperative Societies Act, 1961. The petitioner has challenged the order dated 25th September, 2000 made by the Additional Registrar [*Appeals*] in Appeal No. 53 of 1999.

It appears that the Society was constituted in the year 1975 for the common benefit of Rohit community. It is the grievance of the petitioner that though the Society has been formed for a common good, majority of the members of the Society belong to a single family i.e., of the promoter. Thus, the purpose of the Society has been frustrated. The petitioner, therefore, approached the District Registrar of Cooperative Societies seeking winding up of the Society. The District Registrar, by his Order dated 29th March, 1999, allowed the said application and ordered liquidation of the Society. Feeling aggrieved, the Society preferred Appeal before the Additional Registrar [*Appeals*]. The Additional Registrar [*Appeals*] by his Order dated 25th September, 2000 confirmed the finding that most of the members of the Society were members of the family of the

promoter. He, however, allowed the Appeal, set-aside the Order of the District Registrar and remanded the matter to the District Registrar for hearing and decision afresh. Feeling aggrieved, the petitioner has preferred the present petition.

Mr. Naik has submitted that in view of the finding recorded by the authority below, the said authority ought to have dismissed the Appeal preferred by the Society. The order of remand made by the District Registrar [*Appeals*] was, therefore, not justified. He has, however, submitted that in view of the *interim* order made by this Court [*that order was carried to the Hon'ble Supreme Court*] and in view of the Order made by the *Hon'ble* Supreme Court, the District Registrar has, pursuant to the *impugned* order of remand, taken up hearing of the application made by the petitioner. He has submitted that the application is heard and the decision is awaited.

In above view of the matter, as the application pending before the District Registrar is being heard, the cause of action in the present petition does not survive. The petition is accordingly disposed of. Rule is discharged. The parties will bear their own

cost.

It is clarified that this order is made without *prejudice* to the rights and contentions raised in the present petition. Any of the parties aggrieved by the Order of the District Registrar, that may be made hereafter, shall have liberty to challenge the same before appropriate forum on all available grounds, including the contentions raised in the present petition.

{Ms. R.M Doshit, J.}

*Prakash**